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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application for:
Lori Jo Lehman et al.

Serial No.: 09/966,982

Filing Date: September 27, 2001

For: NOVEL STRAIN OF STREPTOMYCES
FOR CONTROLLING PLANT DISEASES

Assignee: AgraQuest, Inc.

Examiner: To Be Assigned

Group Art Unit: 1651

RECEIVED

APR 17 2002

OFFICE OF PETITIONS

Commissioner for Patents
Washington, D.C. 20231

**STATEMENT OF FACTS BY CAROL M. GRUPPI REGARDING NON-SIGNING
INVENTOR PURSUANT TO 37 C.F.R. § 1.47**

Dear Sir:

I, Carol M. Gruppi, have set forth below a Statement of Facts concerning Randy McCoy's refusal to sign a declaration for the above referenced application.

Statement of Facts

1. I am an attorney of record in the above referenced application.
2. The application was filed on September 27, 2001 with an unexecuted declaration listing Lori Jo Lehman, Caiyao Yuan, Jimmy Encio Orjala, Randy Jay McCoy, Denise Carol Manker, Jorge Isaac Jimenez Santamaria and Pamela Gail Marrone as inventors. Copies of the date stamped return receipt postcard, the application transmittal papers and unexecuted declaration are attached as Exhibit A.
3. The United States Patent and Trademark Office ("USPTO") issued a Notice ("Notice") To File Missing Parts Of Nonprovisional Application (Filing Date Granted) on October 23, 2001. A copy of the Notice is attached as Exhibit B.
4. The Notice gave the Applicant two months from the date of the Notice to file an executed Declaration; pay the surcharge fee of \$130.00 for late filing of a declaration under 37 C.F.R. 1.1(l); and file substitute drawings under 37 C.F.R. 1.84(e).
5. A letter enclosing a Declaration for Utility Patent ("Declaration"), an Assignment and a copy of the application as filed was mailed to Dr. McCoy's home address

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of 3212 Breton Avenue Davis, CA 95616 on November 15, 2001. Copies of letter and enclosures attached as Exhibit C.

6. The letter requested that Dr. McCoy execute the Declaration and Assignment, and return the executed documents in the enclosed pre-addressed envelope. (see page 2 of the letter; Exhibit C).

7. I called Dr. McCoy at home [(530) 759-1209] on January 15, 2002 and left a voice mail message requesting that Dr. McCoy return the executed documents to us for filing with the USPTO.

8. After receiving no response from Dr. McCoy, I called Dr. McCoy at home on January 17, 2002. During the telephone conference on January 17, 2002, Dr. McCoy stated that the number of documents requiring his signature had gotten ridiculous and he no longer wanted to be bothered signing any additional patent documents.

9. A partial Response to the Notice was filed on January 24, 2002, as evidenced by the date stamped return receipt postcard attached as Exhibit D. The partial Response to the Notice included a Declaration for Utility Patent executed by Lori Jo Lehman, Caiyao Yuan, Jimmy Encio Orjala, by Denise Carol Manker, Pamela Gail Marrone and Jorge Isaac Jimenez Santamaria. A copy of the partial response as filed on January 24, 2002 is attached as Exhibit E.

10. An Assignment to AgraQuest, Inc. executed by Lori Jo Lehman, Caiyao Yuan, Jimmy Encio Orjala, by Denise Carol Manker, Pamela Gail Marrone and Jorge Isaac Jimenez Santamaria was filed for recordation with the USPTO on December 21, 2002. A copy of the assignment and accompanying documents as filed with the USPTO on December 21, 2002 is attached as Exhibit F.

11. A Notice of Incomplete Reply (copy attached as Exhibit G) was mailed by the USPTO on March 13, 2002. The Notice of Incomplete reply stated that the signature of Randy McCoy was missing from the Declaration. Accordingly, the undersigned is filing this Statement of Facts and accompanying documents to set forth the facts relating to Randy McCoy's refusal to sign the Declaration.

12. This statement is being made based on my first-hand knowledge of the facts recited therein.

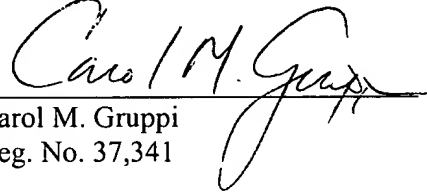
13. I further declare that all statements made herein of my own knowledge are true and all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Respectfully submitted,

Date: April 16, 2002

By: _____

Carol M. Gruppi
Reg. No. 37,341



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